

Robert D. Hicks

Time Crime

Anti-Looting Efforts in Virginia

Since enactment of the Archeological Resources Protection Act (ARPA) and the Native American Graves Protection and Repatriation Act, Virginia has featured prominently in federal prosecutions. “Virginia is the showcase state for archeological resources theft cases,” a federal prosecutor said. At the state and local level, however, law-enforcement officers, as recently as the early 1990s, knew nothing of the criminal provisions of these laws and had not been taught many of the Virginia laws that pertain to archeological resources. While federal prosecutions were occurring in Virginia, no comparable state cases had taken place.

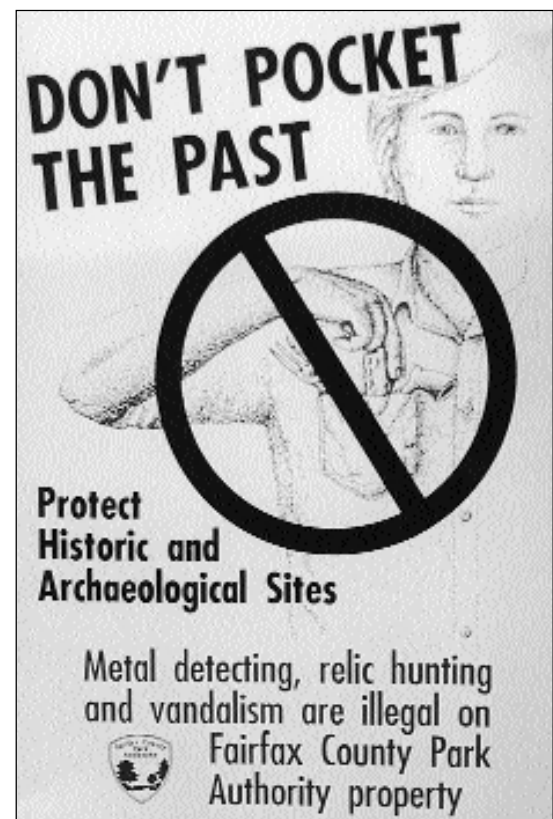
With assistance from the National Park Service Archeology and Ethnography Program, the Virginia Department of Criminal Justice Services (DCJS), an agency that oversees the standards for hiring and training law-enforcement officers and administers millions of federal and state dollars for criminal justice programs, in 1995 began a collaboration with the Virginia Department of Historic Resources (DHR) in creating a training program for local law-enforcement officers in what has become known as “time crime,” a term for theft of and vandalism to historic resources. The training program uses the word “historic” to encompass archeological resources, the term meant to focus on the victim when archeological resources are destroyed: our collective history. Further, unlike ARPA, Virginia attaches no time requirement for a resource to be protected under law. In Virginia law, an “object of antiquity” could be an artifact of very recent manufacture that receives protection because of its context.

Virginia law allows almost any excavation to occur on private property with the consent of the owner, with only a few exceptions. Underwater cultural resources are generally state protected, and a permit is required for their excavation and retrieval. Artifacts in caves or rock shelters also require a state permit for their removal, even if on private property. Human

burials, the disturbance or illegal excavation of which incurs the most severe penalties of all protection laws, receive absolute protection. Any human burial, no matter where located, cannot be disturbed or excavated without a permit or a court order.

Teaching officers these laws is an important step; prosecuting offenses is the test of the laws’ viability. Most applicable laws have been under-enforced, if enforced at all, but it would have required considerable self-confidence for a sheriff’s deputy, say, to be willing to testify in court to the theft of Middle Woodland projectile points without the requisite archeological knowledge. Based on the investigative protocol taught at the Archeological Resources Protection Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia, a strategy was devised. ARPA requires the involvement of an archeologist to perform a damage assessment at a crime scene. With help from the Department of Historic Resources, professional archeologists throughout the state were asked to participate in the time crime program. The archeologist volunteers attended a training session to better understand how to collaborate with law-enforcement officers in analyzing a crime scene, collecting evidence, and testifying as experts in court. With

Vandalism to and theft of archeological resources goes largely unchecked in Virginia. Some local governments have promoted anti-looting messages and have passed local ordinances against it. Photo courtesy Fairfax County Park Authority.





Publicity surrounding the convictions of two men for violating the Archeological Resources Protection Act in Petersburg, Virginia, frightened a looter into presenting a Richmond funeral home with this box of human remains, a Civil War soldier who was buried near the Cold Harbor Battlefield, with associated artifacts. The precise location of the original burial remains unknown. Photo by the author.

the indispensable volunteer help of professional archeologists, classes were offered to regional criminal justice academies for law-enforcement in-service training credit.

Each class is co-taught by an archeologist who works in the region where the training occurs and a law-enforcement specialist. The four-hour

classes offer an overview of the looting problem in Virginia, nationally, and internationally; a description of pertinent laws and case studies; plus an outline of suggested investigative strategies. An eight-hour variant of the course includes a half-day practicum in which a crime is enacted, requiring the officers to halt the offense, interview and arrest the suspect, and collect evidence and diagram the scene. To date, hundreds of law-enforcement officers have attended the training through almost 80 classes and presentations. Of particular importance, attendees receive a call-out list of professional archeologists who can provide the requisite technical expertise.

Almost as soon as classes became available in time crime, the program began to acquire notoriety, especially among relic hunters. Within months of the first training classes, two looters were caught illegally excavating a sunken Civil War munitions barge, and both were convicted of multiple offenses. The investigation featured the placement of archeologists on search warrant teams. The supervising officer complimented the training program as instrumental in the recognition of the offense-in-progress and its subsequent investigation. *

During the five years of the program, additional investigations have occurred as a result of the training, and far more consultations have taken place between law-enforcement officers and archeologists. Virtually all of the consultations have involved the disposition of human remains. Skeletal material is inadvertently discovered through construction and sometimes deliberately excavated through looting. Native American graves are looted for burial goods; graves of Civil War soldiers are pilfered for military uniform paraphernalia. The consultations have revealed

ambiguities in the law but more often serve to instruct relic hunters and citizens. Abandoned or disused cemeteries are imperiled because of development and vandalism, and their disturbance or destruction can unexpectedly ignite community concern. One incident involved the inadvertent destruction of a few grave markers in what is believed to be a Quaker cemetery from a Caroline County community that was closed in the 1850s. While the investigation, conducted jointly by a sheriff's deputy and an archeologist, revealed no criminality, the community was nevertheless left with an exposed and disturbed cemetery, hitherto unknown. Funds were located through the state-run Threatened Sites Program to conduct a survey to locate burials, which was duly carried out. Quaker descendants who now wish to preserve the site have in hand an archeological survey plus a site number as the basis for their further work.

On the other hand, the Virginia program has met with obstacles. One attorney refused to prosecute a man who bulldozed the architecture of a derelict cemetery, asserting that the true vandals were Union soldiers who carried off and re-used tombstones during the Civil War. In Richmond, a school teacher (a relic hunter) and some of his students excavated the remains of a Confederate soldier without the requisite permit. An organization of descendants of Confederate veterans had arranged for a reburial with an honor guard of re-enactors. Although it was too late for a prosecution, the teacher and his school received admonishing letters from the appropriate state authorities. When publicized events such as the reburial occur where ignorance of the law appears evident, both DHR and DCJS contact the principals involved to educate them about the law respecting antiquities.

The time crime program has evolved in unexpected directions. One historic site that features a summer school for middle school students on archeology has incorporated a looting component in which students role-play investigators, crime scene technicians, and even journalists. The role-play involves an enacted crime in progress featuring an illegal excavation for Civil War artifacts. Mimicking the practicum that teaches officers and archeologists how to process a crime scene in the federal training course, the students must likewise interview the perpetrator, take notes, collect evidence, and make an arrest. Sometimes the time crime investigations them-

selves can involve the unexpected. An internal investigation in a state-run maximum security prison examined the possibility that a staff member had collected artifacts from the prison farm, which happened to be located in an archeologically rich area featuring a continuum of habitation from Paleoindians to the arrival of Europeans.

Recently, a major success was achieved in securing the first conviction of relic hunters in southwest Virginia for looting Native American graves. Although the case began as an ARPA investigation, events required that the case be handled as a local prosecution. Thanks to the time crime program, the necessary resources were in place to help and encourage the prosecuting attorney. During the five years of the program, federal prosecutorial successes have multiplied in Virginia. In one of the most important ARPA cases to date, in October 1997, two men from Petersburg entered guilty pleas in federal court for illegally excavating artifacts from the Petersburg National Battlefield. Both men served prison sentences in this widely publicized case.

This case and other federal prosecutions have helped to legitimize the state effort.

Note

* The case was described in "Virginia Sends Message to Civil War Buffs," *Common Ground*, spring, 1997.

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DCJS is willing to share information on the time crime program, including a sample standard operating order for a law-enforcement agency on the topic, a checklist for archeologists who help process crime scenes, and more. For further information contact Robert Hicks, Crime Prevention and Law Enforcement Services Section, Department of Criminal Justice Services, 805 E. Broad Street, Richmond, Virginia 23219, 804-786-8421, or email <rhicks@dcjs.state.va.us>.

Liz Bauer and Carolyn Landes

Mesa Verde Collection Faces the Heat

Wildland fires are a constant threat at Mesa Verde National Park. Three fires in the last four years have burned nearly half of the park. All developed areas have been threatened, some facilities have been damaged, and others have been completely destroyed. The fires since 1996 have come within 1 to 1 1/2 miles of the Research Center where the 2.9 million-object museum collection is housed. This irreplaceable collection documents not only the archeology (Ancestral Pueblo, AD 500-1300) of the park, but also the history and environment.

The Mesa Verde collections are currently housed in a 5,104-square-foot storage facility that was constructed nearly 50 years ago as a temporary archeological field lab. Conditions for proper storage are substandard. The building is not adequately sealed; insulation consists of deteriorating

fiberglass material attached to the ceiling with duct tape. The existing air conditioners and heating system do not maintain an adequate temperature, there is no humidity or zoned thermostat control, and the electrical system is insufficient to support the necessary computer hardware. The storage facility at Mesa Verde meets 29 (38%) out of the 76 standards listed on the NPS Checklist for Preservation and Protection of Museum Collections.

Threats from Fire

In addition to the Mesa Verde collections being at risk due to deficient storage conditions, uncontrollable wildland fires also seriously threaten them. Since 1996, three lightning ignited fires have burned 25,486 acres (49%) of the park's 52,000 acres. The 1996 Chapin 5 Fire started one mile north of the Research Center and burned 4,781 acres. During the summer of 2000, two fires burned within 1 1/2 miles of the